In The United States Patent And Trademark Office

Applicants:	Necdet Uzun, Mike Takefman
Assignee:	Cisco Technology, Inc.
Title:	SYSTEMS AND METHODS FOR ALLEVIATING CLIENT OVER-SUBSCRIPTION IN RING NETWORKS

Application No.:	10/643,490	Filing Date:	August 19, 2003
Examiner:	Kevin T. Bates	Group Art Unit:	2153
Docket No.:	CIS0189US	Confirmation No.	5439

Austin, Texas
June 4, 2008

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

Applicants hereby request review of the final rejection, mailed February 4, 2008, in the above-identified application with a shortened statutory period set to expire May 4, 2008. Accompanying this request is a petition under 37 C.F.R. § 1.136 for a one month extension of time, setting a new time for response to June 4, 2008. This Request is being filed concurrently with a Notice of Appeal Under 37 CFR § 41.31. No amendments are being filed with this request.

This review is requested for the reasons set forth in the Remarks section below.

Remarks

Claims 1-66 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication 2003/0163593 listing Knightly as the inventor ("Knightly") in view of U.S. Patent 7,102,997 issued to Sultan ("Sultan"). Applicants respectfully submit that these rejections of the Final Office Action mailed February 4, 2008 ("Final

Office Action") are in clear error as the cited sections of Knightly and Sultan fail to provide disclosure of all the elements of independent claims 1, 18, 35, 46, and 54.

Independent claims 1, 18, 35, 46, and 54 each contain limitations of substantially the following form: "receiving information indicating a need to change an amount of data being transmitted through a first media access control (MAC) device to a client of the first MAC device, wherein the information is received from the client when the client determines that the client is receiving data at a rate exceeding a set threshold." The Final Office Action relies upon Knightly and Sultan to purportedly teach the above quoted limitations. Applicants respectfully submit that these limitations are neither taught nor suggested by the cited portions of Knightly or Sultan, either alone or in combination.

As an initial matter, the Final Office Action admits that Knightly fails to disclose "the information is received when the client determines that the client is receiving data at a rate exceeding a set threshold." In order to purportedly provide this missing disclosure, the Final Office Action states that Sultan teaches allowing "a client to monitor an aggregate rate it is receiving at (Column 4, lines 38-40, where the users of the CUG control and monitor the leaky bucket mechanism) and if that rate exceeds a threshold creating a throttle message...." Final Office Action, p. 3. But nothing in the cited portion of Sultan teaches or suggests that a client determines that the client is receiving information at a rate exceeding a set threshold, and that the client provides information so indicating, as claimed.

The cited passages of Sultan disclose "a 'leaky bucket' mechanism used at each node 12 for monitoring and controlling the use of an outgoing ring segment...." Sultan 4:38-40 (emphasis supplied). Sultan's leaky bucket mechanism (shown in FIG. 3) includes packet buffers for purportedly storing outgoing packets, or packets transmitted from the clients of a closed user group (CUG) to the network. Packets are purportedly put into the bucket when members of a CUG (which may be scattered among various nodes of the ring) attempt to transmit packets onto a particular outgoing link. Sultan 4:42-47. Packets are purportedly removed from the bucket and transmitted onto the link according to a predetermined rate according to the specified aggregate transmission rate for the CUG. Sultan 4:54-55. The bucket (buffers) "fills" when more packets are put into the bucket than are removed. *See* Sultan 4:42-47. When the node maintaining the bucket

determines that the bucket has filled, the node sends one of the CUG members a throttle message indicating that the member should decrease the rate at which the member transmits packets into the network. Sultan 5:1-5.

Sultan's leaky bucket mechanism merely provides a mechanism for purportedly controlling outgoing transmission from a group of clients. The leaky bucket mechanism does not provide disclosure of (a) a client determining that the client is receiving data at a rate above a set threshold or (b) receiving the claimed information from a client when such a determination is made by the client, as claimed. Thus, Sultan's monitoring and controlling are completely unrelated to the rate at which a client is receiving data.

The Advisory Action dated May 2, 2008 also states that Sultan "provides a teaching to Knightly that nodes can monitor their receiving rates and when that receiving rate becomes overloaded (threshold) then sending throttle messages to clients." Advisory Action, p. 2. However, merely monitoring a node's receiving rate does not teach or suggest a client determining that the client is receiving data at a rate exceeding a threshold, as claimed. The Final Office Action equates the claimed client with the clients disclosed by Sultan, and the claimed MAC device with the nodes disclosed by Knightly. Final Office Action, p. 2-3. A node (MAC device) monitoring the node's receiving rate bears no relationship to a client determining "that the client is receiving data at a rate exceeding a set threshold," as recited in the independent claims.

Thus, neither Knightly or Sultan, considered alone or in combination, teaches or suggests "receiving information indicating a need to change an amount of data being transmitted through a first media access control (MAC) device to a client of the first MAC device, wherein the information is received from the client when the client determines that the client is receiving data at a rate exceeding a set threshold." Instead, these two references simply teach that a node (MAC device) monitors the rate at which the node receives data and sends throttle messages to clients when the rate exceeds a threshold.

For at least the above reasons, Applicants submit that neither Sultan nor Knightly, alone or in combination, teaches all the limitations of independent claims 1, 18, 35, 46, and 54, and all claims depending therefrom, and that the rejections presented in the Final Office Action are in error.

Application No.: 10/643,490

CONCLUSION

In view of the remarks set forth herein, Applicants assert that the application is in condition for allowance and a notice to that effect is solicited.

Respectfully submitted,

Shawn Doman
Attorney for Applicants
Reg. No. 60,362
Telephone: (512) 439-5092
Facsimile: (512) 439-5099